IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 584 of 2006.

Decided on: 11.06.2007.

Power Grid Corporation of India Ltd. … Petitioner.

Versus

Shri Ram Lal Chauhan. … Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioner: Mr. K.D. Shreedhar, Advocate.

For Respondent: Mr. D.N. Ronta, Advocate.

Rajiv Sharma, Judge:

This petition arises out of the award dated 12.1.2006 announced by the District Judge, Shimla under Section 16(3) of the Indian Telegraph Act, 1885 read with Section 51 of the Indian Electricity Act.

The brief facts necessary for the adjudication of this petition are that the President of India has approved the Scheme on 5.4.1989 for the construction work of 400 KV D/C Jhakri-Abdullapur transmission line under Section 29 of the Electricity (Supply) Act, 1948. The same was published in the H.P. Rajpatra in the month of February, 1994. The transmission line had been

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Whether reporters of local papers may be allowed to see the judgment? No.

carried through over the land of the respondent comprised in Khasra Nos. 153 and 154 situated in Chak Melath, Pargana Ubadesh, Tehsil Kotkhai, District Shimla, H.P. While taking the transmission line through and over and on the land of the respondent, the apple bearing plants of different age standing on the land as per the details given below were damaged:-

a) 13 apple plants of 7 years of age damaged to the extent of 15% and the compensation of the value of the same was assessed at Rs.2155/- only.

b) 4 apple plants of 9 years damaged to the extent of 20% and value assessed at Rs.844/-.

3 apple plants of 9 years of age damaged to the extent of 30% and value assessed at Rs.949.50.

4 apple plants of 9 years of age damaged to the extent of 40% and value of the same assessed at Rs./1688/-.

6 apple plants of 9 years of age damaged completely and value assessed at Rs.6330/-.

c) 4 apple plants of 12 years of age fully damaged and value of the same assessed at Rs.3920/-.

2 apple plants of 10 years of age fully damaged and value of the same assessed at Rs.2060/-.

9 apple plants of 8 years of age fully damaged and value of the same assessed at Rs.9720/-. The total value of these damaged plants was thus assessed at Rs.15700/-.

d) 6 apple plants of 13 years of age fully damaged and the value of the same assessed at Rs.5880/-.

17 apple plants of 13 years of age damaged to the extent of 10% and value of the same assessed at Rs.1666/-. The total value of these damaged apple plants was thus assessed at Rs.7546/-.

d) 1 apple plant of 9 years of age damaged to the extent of 20% and value of the same assessed at Rs.211/-.

3 apple plants of 9 years of age damaged to the extent of 25% and value of the same assessed at Rs.791.25.

1 apple plant of 9 years of age damaged to the extent of 40% and the value of the same was assessed at Rs.422/-.

3 apple plants of 10 years of age damaged to the extent of 25% and the value of the same was assessed at Rs.722.50/-.

3 apple plants of 10 years of age fully damaged and value of the same was assessed at Rs.3090/-.

10 apple plants of 19 years of age damaged to the extent of 25% and value of the same was assessed at Rs.2012.50. The total value of these damaged plants was assessed at Rs.7299.00.

The petitioner-Corporation had assessed the damage caused to the apple trees at Rs.42,512/-. The respondent not satisfied with the assessment made by the petitioner-Corporation preferred a petition under Section16(3) of the Indian Telegraphs Act, 1885 read with Section 51 of the Indian Electricity Act for the enhancement of compensation before the learned District Judge, Shimla on 19.3.2002. The petitioner-Corporation had filed reply to the claim petition. The learned District Judge had awarded a sum of Rs.3,82,608/- with interest at the rate of 7% per annum from the date of the petition till payment.

Mr. K.D. Shreedhar appearing on behalf of the petitioner-Corporation has strenuously argued that the award made by the learned District Judge dated 12.1.2006 is not sustainable in the eyes of law. Mr. D.N. Ronta had supported the award dated 12.1.2006.

I have heard the parties and gone through the record.

Admittedly the damage has been caused to the fruit trees as per the details given above while laying the construction work of

400 KV D/C Jhakri-Abdullapur transmission line over Khasra Nos. 153 land 14534 owned by the respondent.

Shri Ram Lal while appearing as PW-1 had stated that 92 plants of apple were damaged out of them 35 were totally damaged and remaining were damaged partially. He had further stated that he was entitled for the compensation as per the rates prevalent in the year 1998.

RW-1 Shri S.N. Thakur, Junior Engineer of the petitioner-Corporation had admitted the construction of towers and laying down of the transmission line. RW-2 Shri Hari Ram Chaudhary, Deputy General Manager of the petitioner-Corporation had stated that the damage caused to the plants has been properly assessed and paid to the respondent. This Court in **Ramesh Chand and others Vs. Land Acquisition Collector, Latest HLJ, 2003 (HP) 977** has taken into consideration the price index between 1966 to 1989.

The respondent had examined PW-2 Shri Kuldeep Chand Sood, Assistant Director, Labour Bureau, Shimla who has proved the price index report and he had stated that in between 1966 to 1989 there has been an increase of 1205 per cent in the State of Himachal Pradesh. The petitioner-Corporation had placed on record before the learned District Judge the copy of the Evaluation Criteria of Fruit Trees in Himachal Pradesh issued by the Department of Horticulture, Himachal Pradesh vide Ext.R-1, dated 11.10.2001. The apple plants of the respondent had been damaged in the year 1998 and for assessing the damage caused

to them, the learned District Judge had rightly relied upon the Harbans Singh Formula. The petitioner-Corporation had also relied on the Harbans Singh Formula except that the price increase index from 1966 to 1998 had not been considered. The learned District Judge after relying upon Harbans Singh Formula had correctly taken into consideration the increase in price index from 1966 to 1998 on the basis of 1000 per cent increase. There is neither any jurisdictional error nor any procedural irregularity in the award pronounced by the learned District Judge.

Accordingly, there is no merit in this writ petition and the same is dismissed. The award dated 12.1.2006 is up-held and the interim order dated 23.8.2006 confirmed on 4.1.2007 is vacated. There shall be no order as to costs.

June 11, 2007
(sck).

(Rajiv Sharma)
Judge